THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.16866 of 2007

Dated: 13.08.2007

Between:

J.Usha Devi.

..... PETITIONER

AND

The District Collector, Anantapur, and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.16866 of 2007

ORDER:

The petitioner is resident of D.Hirehal Village and Mandal, Anantapur District. She has interest in land admeasuring Acs.12.00 in survey Nos.156, 157 and 158 situated at D.Hirehal Village and Mandal, Anantapur District, belonging to her father, who statedly suffered a stroke. She alleges that fourth respondent, who is the father of fifth respondent, dug a bore-well in survey No.160-B illegally contravening the provisions of the Andhra Pradesh Water, Land and Trees Act, 2002 (the Act, for brevity). She gave a complaint to respondents 1 to 3, namely, the District Collector, the Revenue Divisional Officer as well as the Tahsildar. Admittedly it appears that third respondent conducted enquiry as directed by the District Collector and

submitted a report to the latter recording a finding that fourth respondent did not obtain any permission for digging the bore-well in survey No.160-B. However, third respondent informed the petitioner by an endorsement dated 17.04.2007 that in view of the pendency of O.S.No.187 of 2006 and I.A.No.462 of 2006 on the file of the Court of the Junior Civil Judge, Rayadurg, filed by respondents
4 and 5, no action has been taken on her representation dated 16.04.2007. This is assailed in this writ petition as illegal and arbitrary.

The learned counsel for the petitioner submits that though third respondent is a party to the suit, the lower Court did not pass any order of injunction. Therefore, pendency of the suit is not a bar to third respondent to exercise statutory powers vested under the Act. The submission is not seriously disputed by the learned Assistant Government Pleader for Revenue. Indeed it is the duty of third respondent to enforce the provisions of the Act, especially when the Government has issued notification in Andhra Pradesh Gazette dated 07.06.2006 declaring D.Hirehal Village as one of the overexploited Villages under Section 11(3) of the Act. Such being the position, the statutory authority cannot abdicate its powers. It is bound to pass orders unless there is an injunction passed by the Court. Be it noted that as rightly submitted by the learned counsel for the petitioner, there cannot be an injunction preventing the statutory authority discharging powers vested in it under the relevant statute. Therefore this writ petition is disposed of at the admission stage observing that third respondent should pass orders keeping in view the report submitted, within a period of three weeks from the date of receipt of a copy of this order after giving notice to respondents 4 and 5 and giving adequate opportunity.

The writ petition, with the above observations, is accordingly disposed of. No costs.

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(**V.V.S.RAO, J**)

13th August, 2007
ghn